

**Notice of Allowability**

Application No.

10/509,633

Applicant(s)

ARNOULD, JEAN-CLAUDE

Examiner

Nyeemah Grazier

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 12/22/05.
2. ☒ The allowed claim(s) is/are 7 and 10-21.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 6/28/05
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

**DETAILED ACTION**  
**NOTICE OF ALLOWANCE**

**I. ACTION SUMMARY**

The Amendments to the Claims and Election Remarks submitted to the Office on December 22, 2005 has been fully considered and will be the basis of the following Notice of Allowance. Claims 1-6 have been cancelled. Claims 7, and 10-21 are currently pending. Claims 13-21 are newly added.

**II. INFORMATION DISCLOSURE STATEMENT**

The information disclosure statement (IDS) submitted on June 28, 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement has been considered by the examiner.

**III. RESPONSE TO AMENDMENTS**

***A. Election: Response to Election (Remarks December 22, 2005)***

Applicant's election with traverse of amended claims 7, and 10-21, drawn Formula (VIId) has been acknowledged by the Applicant in the Response. Because the applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). The requirement is still deemed proper and is therefore made FINAL.

**IV. EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Lucy Padget, Esquire on February 9, 2006.

The application has been amended as follows:

1. Delete "C1-4alkoxycarbonylamio, amino," in claim 7 in the definition of R4 on page 3 of 9;
2. Delete "prodrug" in claim 7 on p. 4 of 9.
3. Delete "3-cyano-5-phenylsulphanyl-1H-indole;" in claim 10, p. 4 of 9.
4. Delete "3-cyano-5-phenoxy-1H-indole;" in claim 10, p. 4 of 9.
5. Delete "prodrug" in claim 10 on p. 5 of 9.
6. Delete "prodrug" in claim 11 on p. 4 of 9.
7. Insert ---or--- before "solvate" and after "salt," in claim 11, p. 5 of 9.
8. Delete " or prodrug" in claim 12 on p. 4 of 9.
9. Insert ---or--- before "solvate" and after "salt," in claim 12, p. 5 of 9.
10. Delete "prodrug" in claim 12 on p. 7 of 9, line 4.
11. Delete ";" at the end of the sentence of Claim 13 and Insert a period, ---.---, at the end of the sentence in claim 13 on p. 7 of 9.

12. Delete “;” at the end of the sentence of Claim 14 and Insert a period, ---, at the end of the sentence in claim 14 on p. 7 of 9.

**V. REASONS FOR ALLOWANCE**

The following is an examiner’s statement of reasons for allowance: The instant invention is drawn to compound, compositions and method of making the compounds of formula (VIId). The instant invention appears to be free of the art of record. The closest prior art reference of record is *Eakin et al.* US 4,533,672. The instant invention is not rendered obvious nor is it anticipated by the prior art of record because although the ‘672 patent teaches cyano phenyl thioindoles and cyano phenoxyindoles there is no suggestion to substitute the phenylthio or phenoxy moiety with the R1 groups of the instant application. Furthermore, the invention in the ‘672 patent is drawn to 2-amino, 3-cyano indole derivatives.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled “Comments on Statement of Reasons for Allowance.”

**VI. CONCLUSION**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nyeemah Grazier whose telephone number is (571) 272-8781.


Art Unit: 1626

The examiner can normally be reached on Monday through Thursday and every other Friday from 8:30 a.m. - 6:00 p.m.

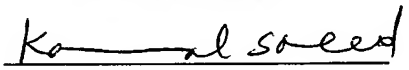
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane, can be reached on (571) 272 - 0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Very truly yours,

  
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